

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

PAUL KURLANSKY, HELAINE KURLANSKY,
MARTIN EPSTEIN, HERBERT ENNIS, JUDITH
ENNIS, MORDECAI APPLETON, HENRY KATZ,
LILA KATZ, JOAN KATZ, GLENN KATZ, and
JUDITH SINGER,

Plaintiffs,

-against-

1530 OWNERS CORP.; MOE MARSHALL,
ELLEN GERBER, KENNETH LIPKE, CAROL
LICHTBRAUN, JUSTIN WIMPFHEIMER,
PATRICIA DI CONSTANZO, and MARK
O'NEILL, Individually and as Members of the Board
of Directors of 1530 Owners Corp., and;
FIRSTSERVICE RESIDENTIAL,
Defendants.

**DECLARATION OF MORDECAI APPLETON PURSUANT TO 28 U.S.C. § 1746
IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Mordecai Appleton, hereby declare under penalty of perjury:

1. I am a plaintiff in the above-captioned proceeding and I am a resident of the Colony in Fort Lee, New Jersey, where I have been living with my wife, Ms. Carole Appleton, for the past six years. Carole and I reside in the Colony's South Tower in apartment 21M. I am familiar with the fact that the Colony's service elevators are equipped with a Sabbath mode that allows the elevators to be pre-programmed to stop at certain floors, obviating the need for any button pushing. The Colony's Sabbath elevator program was approved by a majority of the Colony's shareholders on May 19, 2019, but was then terminated by the Colony's board of directors. During the period of time in which the Sabbath Elevator was operational, I used it weekly. I am also familiar with the Colony's longstanding practice, in the absence of a Sabbath elevator, of assisting observant Jewish residents with the elevators on the Sabbath and certain

Jewish holidays by pressing buttons for the residents—a service that I and my wife likewise utilized, but which has now also been scuttled. As such, I am familiar with the facts and circumstances set forth herein. I submit this Declaration in support of Plaintiffs’ Application for Preliminary Injunction.

2. As an observant Jew, my religious beliefs are informed by thousands of years of Jewish tradition. Part of my strongly-held religious beliefs is the primacy of *halakha*, or the Jewish legal system, which establishes a framework for my entire life. A second core element of my beliefs is *kehillah*, or community, and the importance of joining together with members of my community to pray, study, and worship, to mourn at sad times and to celebrate in times of joy.

3. A core part of my adherence to Jewish law is my observance of the Sabbath, the Jewish day of rest, which spans from Friday evening until Saturday night. On the Sabbath, and certain Jewish holidays, many observant Jews refrain from certain activities, including the use of electronic and certain mechanical devices. For example, many observant Jews, including myself, do not press elevator buttons on the Sabbath and certain Jewish holidays. Doing so would violate my sincerely held religious beliefs.

4. I am 91 years old and suffer from congestive heart failure, which makes me unable to use the stairs. I require an elevator to get to my 21st floor apartment and the use of a special Sabbath compliant motorized scooter for travelling longer distances, such as for attending synagogue.

5. Before the Colony adopted the Sabbath mode for the new service elevators, my wife and I arranged with the building staff for assistance with the elevators when attending services at the synagogue on the Sabbath – which we did every week – and we would provide a

tip to the staff who assisted us. The staff was always very accommodating, and neither my wife nor I ever experienced any difficulty in coordinating with this elevator assistance. This service allowed us to almost freely come and go during the Sabbath. This provided us with flexibility and dignity in fully observing the Sabbath. After the Sabbath Elevator was in place, this greatly improved, as all we needed to do was wait by the elevator until it came to our floor and then we could come and go as we pleased. This greatly enhanced our observance of the Sabbath.

6. After the Colony's Board of Directors terminated the Sabbath elevator program in July 2020, I have contributed to the cost of hiring someone to assist pushing the elevator buttons. But this is not a suitable replacement for either the Sabbath elevator program or the prior staff assistance. The small window of time allotted does not allow us to leave our apartment other than for attending synagogue. My wife and I can no longer have guests over to visit, have meals with other building residents who live on different floors, leave the apartment for fresh air on long summer Sabbath afternoons, or go to other synagogue or communal events that take place at times other than those designated for prayer services.

7. On at least two occasions, moreover, the hired assistant did not show up as planned and we were unable to leave our apartment on those Sabbaths. As Sabbath observers, we do not use telephones on the Sabbath, and so could not make alternate arrangements to leave our apartment to attend synagogue.

8. If a functional Sabbath elevator were restored, my wife and I would be able to once again attend synagogue at the time of our choosing. We would also be able to return to enjoying a host of other activities with friends on the Sabbath. Yet without a Sabbath elevator, my wife and I cannot join in the company of friends and other community members, which has negatively impacted our sense of community and camaraderie.

9. I, therefore, respectfully request that this Court grant Plaintiffs' application for a preliminary injunction.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 15, 2021.


MORDECAI APPLETON